

## § 1.1202-0

## 26 CFR Ch. I (4-1-09 Edition)

Tax Under Section 1	
Taxable income exclusive of capital gains and losses .....	\$250,000
Net long-term capital gains (100% of \$140,000) .....	\$140,000
Net short-term capital loss (100% of \$50,000) .....	50,000
Net section 1201 gain (net capital gain for taxable years beginning after December 31, 1976) .....	90,000
Total .....	340,000
Deduction of 50% of net section 1201 gain (net capital gain for taxable years beginning after December 31, 1976) (section 1202) .....	45,000
Taxable income .....	295,000
Tax under section 1 .....	177,480
Alternative Tax Under Section 1201(b)	
(1) Net section 1201 gain (net capital gain for taxable years beginning after December 31, 1976) .....	\$90,000
(2) Subsection (d) gain:	
Section 1201(d)(1) .....	
Section 1201(d)(2) .....	
Section 1201(d)(3) .....	50,000
Total subsection (d) gain .....	50,000
(3) Net section 1201 gain (net capital gain for taxable years beginning after December 31, 1976) in excess of subsection (d) gain (\$90,000 less \$50,000) .....	40,000
(4) Tax under section 1201(b)(1):	
(i) Taxable income .....	\$295,000
(ii) Less: 50% of item (1) .....	45,000
(iii) Amount subject to tax under section 1201(b)(1) .....	250,000
Partial tax (computed under section 1) ...	145,980
(5) Tax under section 1201(b)(2): (25% of item (1) or of item (2), whichever is lesser [25% of \$50,000]) .....	\$12,500
(6) Tax under section 1201(b)(3) on item (3):	
Tax under section 1 on taxable income (\$295,000) .....	\$177,480
Less: Tax under section 1 on sum of item (4) (iii) (\$250,000) plus 50% of item (2) (\$25,000) .....	163,480
(Total \$275,000) .....	14,000
(7) Alternative tax under section 1201(b) .....	172,480

[T.D. 7337, 39 FR 44975, Dec. 30, 1974, as amended by T.D. 7728, 45 FR 72651, Nov. 3, 1980]

### § 1.1202-0 Table of contents.

This section lists the major captions that appear in the regulations under § 1.1202-2.

#### § 1.1202-2 *Qualified small business stock; effect of redemptions.*

(a) Redemptions from taxpayer or related person.

- (1) In general.
- (2) De minimis amount.
- (b) Significant redemptions.
- (1) In general.
- (2) De minimis amount.

(c) Transfers by shareholders in connection with the performance of services not treated as purchases.

(d) Exceptions for termination of services, death, disability or mental incompetency, or divorce.

- (1) Termination of services.
- (2) Death.
- (3) Disability or mental incompetency.
- (4) Divorce.
- (e) Effective date.

[T.D. 8749, 62 FR 68166, Dec. 31, 1997]

### § 1.1202-1 Deduction for capital gains.

(a) In computing gross income, adjusted gross income, taxable income, capital gain net income (net capital gain for taxable years beginning before January 1, 1977) and net capital loss, 100 percent of any gain or loss (computed under section 1001, recognized under section 1002, and taken into account without regard to subchapter P (section 1201 and following), chapter 1 of the Code) upon the sale or exchange of a capital asset shall be taken into account regardless of the period for which the capital asset has been held. Nevertheless, the net short-term capital gain or loss and the net long-term capital gain or loss must be separately computed. In computing the adjusted gross income or the taxable income of a taxpayer other than a corporation, if for any taxable year the net long-term capital gain exceeds the net short-term capital loss, 50 percent of the amount of the excess is allowable as a deduction from gross income under section 1202.

(b) For the purpose of computing the deduction allowable under section 1202 in the case of an estate or trust, any long-term or short-term capital gains which, under sections 652 and 662, are includible in the gross income of its income beneficiaries as gains derived from the sale or exchange of capital assets must be excluded in determining whether, for the taxable year of the estate or trust, its net long-term capital gain exceeds its net short-term capital loss. To determine the extent to which such gains are includible in the gross income of a beneficiary, see the regulations under sections 652 and 662. For example, during 1954 a trust realized a gain of \$1,000 upon the sale of stock held for 10 months. Under the terms of the trust instrument all of such gain